

1 William J. Goines (SBN 61290)
goinesw@gtlaw.com
2 Cindy Hamilton (SBN 217951)
hamiltonc@gtlaw.com
3 Alice Y. Chu (SBN 264990)
chua@gtlaw.com
4 GREENBERG TRAUIG, LLP
1900 University Avenue, Fifth Flor
5 East Palo Alto, CA 94303
Telephone: (650) 328-8500
6 Facsimile: (650) 328-8508
Attorneys for Plaintiffs Gregory Ahn and Cult of 8,
7 Inc.

8 Erik L. Jackson (SBN 166010)
ejackson@cozen.com
9 COZEN O'CONNOR
601 S. Figueroa Street, Suite 3700
10 Los Angeles, CA 90017
Telephone: (213) 892-7961
11 Attorney for Defendant Jonathon White

Joseph W. Anthony (admitted *pro hac vice*)
janthony@anthonyostlund.com
Randy G. Gullickson (admitted *pro hac vice*)
rgullickson@anthonyostlund.com
ANTHONY OSTLUND BAER & LOUWAGIE P.A.
90 South 7th Street, Suite 3600
Minneapolis, MN 55402
Telephone: (612) 349-6969
Facsimile: (612) 349-6996

Richard Van Duzer (SBN 136205)
rvanduzer@fbm.com
Aviva J. Gilbert (SBN 300091)
agilbert@fbm.com
FARELLA BRAUN & MARTEL LLP
235 Montgomery Street, 17th Floor
San Francisco, CA 94104
Telephone: (415) 954-4400
Facsimile: (415) 954-4480

Attorneys for Defendant Matthew D. Scarlett

Anthony D. Giles (SBN 178876)
anthony@anthonygiles.com
LAW OFFICE OF ANTHONY GILES
155 Sansome St., Ste. 500
San Francisco, CA 94104
Telephone: (415) 839-2099
Attorney for Defendant Alcohol by Volume, Inc.

17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 SAN JOSE DIVISION

20 Gregory Ahn, an individual, Jonathan White,
21 an individual, Cult of 8, Inc., a California
corporation

22 Plaintiffs,

23 vs.

24 Matthew D. Scarlett, an individual, Alcohol
25 By Volume, Inc., a Nevada Corporation,
inclusive,

26 Defendants.

Case No: 5:16-cv-05437-EJD

**JOINT STIPULATION AND [PROPOSED]
ORDER**

1 **RECITALS**

2 A. This action, along with the related case, *Matthew Scarlett, individually and*
3 *derivatively on behalf of Alcohol By Volume, Inc. vs. Jonathan White, et al.*, Case No: 5:17-cv-
4 01430-EJD (the “Related Action”), involve disputes, *inter alia*, relating to the ownership and
5 operations of two related corporations, CO8 and Alcohol by Volume, Inc. (“ABV”).

6 B. In April 2017, a closing occurred on the sale of one of the wine brands to an unrelated
7 party.

8 C. Because of disputes about the proper allocation of proceeds from the sale transaction,
9 the parties to this action, along with another unaffiliated entity, agreed to arbitrate before JAMS in
10 San Francisco several issues, relating to the proper distribution of the proceeds from the sale of the
11 brand. That arbitration proceeding is currently pending before JAMS as *Fior di Sole, LLC v.*
12 *Scarlett, Matthew, et al.*, JAMS Reference No. 1100087495.

13 D. Among the issues that the parties have agreed to arbitrate in the JAMS arbitration is
14 the proper ownership of ABV and the ownership of CO8. Ownership of ABV and CO8 is also one
15 of the significant issues in this action and the Related Action before this Court. In a recent Order,
16 the Arbitrator ruled that a claim by Gregory Ahn (“Ahn”) and Cult of 8, Inc. (“CO8”) for Rescission,
17 as set forth in Ahn and Cult of 8’s Notice of Claims Under Rule 9 filed in the JAMS Arbitration,
18 which is an alternative claim asserted by Ahn and CO8 in the First Amended Complaint (Fourth
19 Cause of Action) in this Action, will be arbitrated in the JAMS proceedings. Therefore, the decision
20 to be rendered in the JAMS arbitration is expected to resolve an important subset of issues in these
21 federal court actions. The JAMS arbitration will not resolve all the claims and issues in these
22 actions. However, having these issues resolved by the JAMS arbitration may make it more likely
23 that the balance of these actions can be settled.

24 E. In the JAMS arbitration, a scheduling conference with the Arbitrator (Hon. James P.
25 Kleinberg (Ret.)) has been held. The arbitration hearing is scheduled to be held from November 6 –
26 21, 2017. Based upon a recent ruling of the Arbitrator, the parties are in the process of assessing
27 whether and the extent to which other potential claims are arbitrable and will be asserted in the
28 JAMS arbitration. The resolution of those issues are likely to affect the scope of claims in this

1 action and/or the Related Action.

2 F. There is currently pending before this Court in this action and the Related Action an
3 initial case management conference on August 24, 2017 at 10:00 a.m. Certain filings, including the
4 Joint Case Management Statement and related filings are due to be filed in advance of the case
5 management conference.

6 G. The parties believe that it will be efficient and preserve both judicial resources and
7 resources of the parties if the case management conference and current filing deadlines relating to it
8 are continued for a period of 60 days to allow time for the parties to confirm the scope of issues to be
9 determined in the arbitration proceeding and to report back to the Court with a recommendation as to
10 the handling of this action and the Related Action during the pendency of the JAMS arbitration.

11 **STIPULATION**

12 Based upon the above recitals, the parties, through their undersigned counsel, hereby
13 stipulate and request that the Court enter an order as follows:

14 1. The initial case management conference currently scheduled for August 24, 2017 is
15 continued for a period of 60 days, and the Court shall reschedule the case management conference at
16 a date and time on or after October 24, 2017.

17 2. All current filing deadlines, specifically including the deadlines for filing of the Joint
18 Case Management Statement, Discovery Plan, and/or Rule 26(f) Report, shall be continued for a
19 period of 60 days. This does not apply to the Plaintiff Jonathan White's motion for disqualification
20 of counsel currently scheduled for hearing on August 10, 2017.

21 3. Within 60 days of this Stipulation and Order, the parties shall report to the Court
22 regarding the status of the above-referenced JAMS arbitration and the issues to be determined in it,
23 the impact of that arbitration on this action and the Related Action, and their views as to the
24 appropriate handling of this action and the Related Action during the pendency of the JAMS
25 arbitration.

1 Dated: August __, 2017

GREENBERG TRAURIG, LLP

2 By: /s/ Cindy Hamilton

3 William J. Goines

Cindy Hamilton

Alice Y. Chu

4 Attorneys for Plaintiffs Gregory Ahn, and
Cult Of 8, Inc.

5 Dated: August __, 2017

COZEN O'CONNOR

6 By: /s/ Erik L. Jackson

7 Erik L. Jackson

8 Attorney for Plaintiff Jonathan White.

9 Dated: August __, 2017

ANTHONY OSTLUND

BAER & LOUWAGIE P.A.

10 By: /s/ Randy G. Gullickson

11 Joseph W. Anthony (admitted *pro hac vice*)

janthony@anthonyostlund.com

12 Randy G. Gullickson (admitted *pro hac vice*)

rgullickson@anthonyostlund.com

13 Attorneys for Defendant Matthew D. Scarlett

14 Dated: August __, 2017

LAW OFFICES OF ANTHONY GILES

15 By: /s/ Anthony Giles

16 Anthony Giles

17 Attorney for Defendant Alcohol By Volume, Inc.

18 **ORDER**

19 Based upon the above stipulation of the parties, it is hereby ordered that:

20 1. The initial case management conference currently scheduled for August 24, 2017 is
21 continued for a period of 60 days, and the case management conference is rescheduled to
22 October 26 __, 2017.

23 2. All current filing deadlines, specifically including the deadlines for filing of the Joint
24 Case Management Statement, Discovery Plan, and/or Rule 26(f) Report, shall be continued and reset
25 in accordance with the rescheduled case management conference. This does not apply to Plaintiff
26 Jonathan White's motion to disqualify counsel, currently scheduled for hearing on August 10, 2017.

1 3. Within 60 days of this Stipulation and Order, the parties shall report to the Court
2 regarding the status of the above-referenced JAMS arbitration and the issues to be determined in it,
3 the impact of that arbitration on this action and the Related Action, and their views as to the
4 appropriate handling of this action and the Related Action during the pendency of the JAMS
5 arbitration.

6
7 Dated: August 4, 2017

By: 
Edward J. Davila
United States District judge